

REMARKS

Claims 1, 4-15, 17-23 and 25-34 are pending in the application. Claims 1, 4, 5, 8-15, 17, 18, 21, 23, and 25-34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamoto (U.S. Patent No. 6,334,501) in view of Petley (U.S. 6,591,935). Further, claims 6, 7, 19, 20 and 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamoto in view of Holmes (U.S. 1,591,088). Finally, claims 31-33 have been rejected under 35 U.S.C. 112, second paragraph. Reconsideration of these rejections is respectfully requested for the reasons set forth below.

35 U.S.C. 112, Second Paragraph

The Examiner has noted that certain language in claims 31 and 32 was confusing. These claims have now been amended to address the Examiner's concerns.

35 U.S.C. 103(a)

Independent claims 1, 10, 21, 29 have been amended to indicate that the claimed adapter is intended to be used on vehicles equipped with a single silencer. As such, the claimed adapter is distinguishable from Kawamoto, which required the use of a dual exhaust system due to its reliance a V-type engine. Specifically, Kawamoto relied upon a V-type engine design and a dual exhaust system to 1) transmit exhaust away from the engine and 2) create the mutual exhaust interference that was necessary for the muffler of the Kawamoto system to function. See Kawamoto, Col. 1, lines 25-35. Stated differently, the Kawamoto system would simply not function properly absent the use of a dual exhaust system and the interference created by the convergence of separate exhaust streams. Applicant's adapter, however, may be distinguished from Kawamoto by the fact that it is not used with a dual exhaust system and does it rely upon the convergence of two exhaust streams to function. Instead, Applicant's adapter is fitted on

vehicles equipped with a single silencer that emit a single exhaust stream – and it is in this arrangement that Applicant's adapter has been shown to function particularly well.

For example, even though Applicant's adapter is used on single silencer systems, it has still received praise from those of skill in the art. Specifically, Jimmy Lewis, a reviewer for Dirt Rider magazine, noted in the January 2007 issue that Applicant's adapter yielded "astonishing" results when it reduced the recorded decibels in a test vehicle from 92 decibels to 78 decibels – a decrease of 15.2%. See Exhibit A – Cover page and review page from Dirt Rider. The reviewer also noted that he was "surprised" by the fact that the use of Applicant's adapter did not noticeably affect vehicle performance. *Id.* Indeed, under normal circumstances, one would be discouraged from constricting and/or redirecting exhaust flow due to the resulting negative effect on engine performance. However, according to the outside testing performed by those of skill in the art at Dirt Rider magazine, Applicant's adapter has not only proven to work effectively, it yielded unexpected results in that the use of the adapter did not noticeably affect vehicle performance. These considerations strongly favor a conclusion that Applicant's claimed adapter is clearly not obvious.

Therefore, in view of the above amendment and remarks, Applicant submits that all of the pending independent claims are allowable over the prior art. Further, all dependent claims are allowable at least for the reason that they depend from an allowable independent claim.

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Respectfully submitted,

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dB SNORKEL

dB SNORKEL

Dirt Rider has taken a strong stand on the noise issue, and we are always looking for better solutions. The dB Snorkel is just that: a fresh idea in quieting down two-strokes. It is simple, effective and retails at a very reasonable \$85. The biggest drawback to the dB Snorkel could be its looks, but if it bugs you when you ride, the bigger problem is you looking at your muffler instead of the trail. Its conspicuous appearance is also a great way to kick off a conversation about sound issues. But we'll dock it for fashion, on principal.

The instructions are huge, like blueprints for a house, but they are easy to follow. Install time will range from 30 minutes to an hour. The trick is to get the snorkel's hard parts to clear

HARD PARTS		89
INSTALLATION	17/20	
FUNCTION	48/50	
DURABILITY	8/10	
DESIGN	7/10	
PRICE	9/10	
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the brake caliper and attach securely to the muffler; this process was simple on our FMF Q. It fits on the end of most two-stroke mufflers with a circumference close to 9 1/4 inches and seals securely with a series of hose clamps and brackets.

With the help of *DR* friend

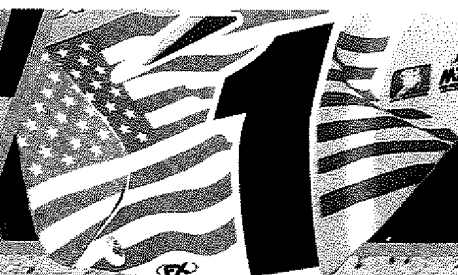
Charlie Williams and his KTM 300 EXC, which sounded in at 94 decibels with fresh silencer packing, we bolted up a dB Snorkel; his bike now tests at 82.3 decibels. On our KTM 200 EXC, we went from 92 decibels down to an astonishing 78 decibels. These bikes were so quiet that you do not actually hear the exhaust note any longer but rather the growl of the intake and the tinging inside the expansion chamber. Having a pipe shield damps the noise even further.

So it has to kill performance right? Well, in actuality, you can't even feel a difference in normal trail-riding situations, and this was a big surprise. Even when holding the bike wide-open for some long runs on roads, it was hardly noticeable, and it withstood all the abuse we put it through. Although it weighs in at 2 pounds, you hardly feel it was there while riding the bike. It has the added benefit of making it really hard for water to enter the muffler. Some goop will accumulate on the Snorkel, but it wipes right off with degreaser.

Right now, the dB Snorkel is only recommended for two-strokes. The manufacturer has not done enough testing on four-stroke bikes, whose exhaust is hotter (and louder—we really need it for these!) than a two-stroke's. Hopefully the company will have a unit for them out soon. —Jimmy Lewis



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